

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP  
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Attorney for WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER TO WELLS FARGO HOME MORTGAGE, INC. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

IN RE: § CASE NO. 08-70173-HDH-13

OTILIO BLANCO and CRYSTAL  
LEEANN BLANCO,  
Debtor

§  
§  
§  
§ CHAPTER 13  
§

WELLS FARGO BANK, N.A.,  
SUCCESSOR BY MERGER TO WELLS  
FARGO HOME MORTGAGE, INC.  
ITS ASSIGNS AND/OR  
SUCCESSORS IN INTEREST,  
Movant

§  
§  
§  
§  
§  
§ HEARING DATE: 03/10/2010  
§

v.

§ TIME: 11:00 AM  
§

OTILIO BLANCO and CRYSTAL  
LEEANN BLANCO; WALTER  
O'CHESKEY, Trustee  
Respondents

§  
§  
§  
§  
§ JUDGE HARLIN D. HALE

**MOTION OF WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER TO WELLS FARGO HOME MORTGAGE, INC. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST**

**FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) PURSUANT TO 11 U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO § 362(e)**

**NOTICE - RESPONSE REQUIRED**

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001 (b), A RESPONSE IS REQUIRED. THE TRUSTEE, IF ONE HAS BEEN APPOINTED, OR THE DEBTOR SHALL FILE A RESPONSE TO ANY MOTION FOR RELIEF FROM THE AUTOMATIC STAY WITHIN FOURTEEN (14) DAYS FROM THE SERVICE OF THE MOTION. THE DEBTOR'S RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A RESPONSE AS REQUIRED, THE ALLEGATIONS IN THE CREDITOR'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY SHALL BE DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.**

**File a written response with the court at:**

**CLERK, U.S. BANKRUPTCY COURT  
EARLE CABELL U.S. COURTHOUSE, 1100 COMMERCE STREET, Room  
1254,  
DALLAS, TX 75242-1003**

**UNDER BANKRUPTCY RULE 9006 (e) SERVICE BY MAIL IS COMPLETE UPON MAILING; UNDER BANKRUPTCY RULE 9006 (f), THREE (3) DAYS ARE ADDED TO THE PERIOD FOR FILING A RESPONSE WHEN NOTICE OF THE PERIOD IS SERVED BY MAIL.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER TO WELLS FARGO HOME MORTGAGE, INC. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about May 09, 2008, Debtors (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.

3. At the time of filing the Chapter 13 petition, Movant held a Note executed on April 7, 2006, by OTILIO BLANCO and CRYSTAL LEEANN BLANCO in the original amount of SIXTY-ONE THOUSAND FORTY-TWO DOLLARS AND ZERO CENTS (\$61,042.00) with interest thereon at the rate of 6.375% per annum. A true and correct copy of the Note is attached hereto as Exhibit "A".

4. The indebtedness is secured by a Deed of Trust dated April 7, 2006 and executed by OTILIO BLANCO and CRYSTAL LEEANN BLANCO on real estate with all improvements known as:

0.18 ACRE OUT OF BLOCK 9, RED RIVER VALLEY LANDS BEING THE SAME LAND DESCRIBED IN VOLUME 1548, PAGE 340 DEED RECORDS AND KNOWN AS 418 ELM STREET, BURKBURNETT, WICHITA COUNTY, TEXAS AND DESCRIBED AS FOLLOWS;

BEGINNING AT A 3/8 INCH ROD FOUND AT THE SOUTHEAST CORNER OF THIS TRACT THAT BEARS N 89 DEGREES 05' W 600.93 FEET AND N 00 DEGREES 29' E 115.58 FEET FROM THE SOUTHEAST CORNER OF BLOCK 9, RED RIVER VALLEY LANDS;

THENCE N 87 DEGREES 48' W 110.0 FEET ALONG THE NORTH LINE OF TRACT OWNED BY MARK FRANK WEST, VOLUME 1605, PAGE 591 AND FLORENCE ROBINSON, VOLUME 2128, PAGE 133 TO A 1/2 INCH IRON ROD SET AT A FENCE CONER AND ON THE EAST LINE OF ELM STREET;

THENCE N 00 DEGREES 24' 18' WEST 73.0 FEET ALONG THE EAST LINE OF ELM STREET TO A 1/2 INCH ROD SET AT A FENCE CORNER;

THENCE S 87 DEGREES 39' E 110.0 FEET ALONG THE SOUTH LINE OF A TRACT OWNED BY MARY JANE ARBOGAST, VOLUME 1829, PAGE 75 AS CURRENTLY OCCUPIED TO A 3/8 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF THIS TRACT;

THENCE S 00 DEGREES 24' 18' E 72.70 FEET ALONG THE EAST LINE OF THE MARY FRANK WEST TRACT TO THE PLACE OF BEGINNING AND CONTAINING 0.18 ACRE OF LAND.

A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

5. Debtor have failed to maintain current the post-petition payments due under the Note and are presently in arrears for 3 payments through and including the February 1, 2010 payment.

6. The outstanding indebtedness to Movant is \$58,125.71 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Deed of Trust.

7. Further cause may exist to terminate the automatic stay if the Debtors fail to provide proof of adequate insurance and payment of applicable taxes by Debtors as required by the Note and Deed of Trust. Movant hereby demands proof of insurance and payment of applicable taxes by Debtors. Movant reserves the right to further assert that Debtors have failed to pay taxes or insurance based on the response of Debtors.

8. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor have failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Deed of Trust.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

12. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing,

terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all post-petition payments brought current. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER TO WELLS FARGO HOME MORTGAGE, INC. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

BY: /s/ JEFF FLEMING  
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JEFF FLEMING  
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ATTORNEY FOR MOVANT

2/9/2010

**CERTIFICATE OF CONFERENCE**

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, states that prior to filing the foregoing motion he/she did the following:

Made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel.

NOTES: Kadra Alexander called Debtors' counsel and spoke with Cindy who indicated Debtors are opposed to the Motion.

Date of Conference Call: February 01, 2010 4:35 p.m.

BY: /s/ JEFF FLEMING 2/9/2010

JEFF FLEMING

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ATTORNEY FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that on February 09, 2010, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

/s/ JEFF FLEMING 2/9/2010

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ATTORNEY FOR MOVANT

**DEBTORS:**

CRYSTAL LEEANN BLANCO  
418 ELM STREET  
BURKBURNETT, TX 76354

OTILIO BLANCO  
418 ELM STREET  
BURKBURNETT, TX 76354

**TRUSTEE:**

WALTER O'CHESKEY  
6308 IOLA AVENUE  
LUBBOCK, TX 79424

**US TRUSTEE:**

1100 COMMERCE STREET, ROOM 976  
EARLE CABELL FEDERAL BLDG  
DALLAS, TX 75242

**DEBTOR'S ATTORNEY:**

MONTE J WHITE  
1106 BROOK AVENUE  
WICHITA FALLS, TX 76301

**PARTIES IN INTEREST:**

BURKBURNETT ISD, CITY OF BURK, WICHITA C  
C/O HAROLD LEREW  
PO BOX 8188  
WICHITA FALLS, TX 76307-8188

**PARTIES REQUESTING NOTICE:**

None